

## WATER COUNCIL MEETING

Dept. of Environmental Services  
29 Hazen Dr., Concord, N.H.

April 12, 2006  
9:00 a.m.

**Members present:** Councilors Bridges, Bradley, Butler, Cowan, Densberger, Lyons, Northrop, Patenaude, Phillips and Varotsis

**Members absent:** Councilors Barrett, DiMarzio, Dupee, Glines, Lussier, Lee Perry or his designee.

John Bridges, Chairman, called the meeting to order at 9:00 a.m.

Mr. Bridges informed the council that Bill Ingham, Fish and Game designee to the council, retired from state service. A letter of appreciation will be sent to Mr. Ingham for his years of dedicated service to the council.

**1. Approval of Minutes of February 8, 2006 Meeting**

***A motion was made by Councilor Bradley to accept the minutes of the February 8, 2006 meeting as presented. The motion was seconded by Councilor Phillips and unanimously voted.***

**2. Approval of State Aid Grants**

Steve Snell of the Wastewater Engineering Bureau requested approval of nine state aid grants as set forth in a memo from Bureau Administrator John R. Bush, P.E. to Harry T. Stewart, P.E., Director, Water Division dated March 30, 2006.

***Councilor Varotsis moved to approve the grants and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Bradley seconded the motion and it was unanimously voted.***

WHEREAS, The following municipalities have applied to the Department of Environmental Services, under the provisions of RSA 486, for grants in the amounts listed to aid in the defraying of the costs resulting from the construction of sewage disposal facilities, as defined in said Chapter:

<u>MUNICIPALITY</u>	<u>PROJ. NO.</u>	<u>PROJECT DESCRIPTION</u>	<u>AMOUNT</u>
Wolfeboro	C-710	Wastewater Improvements	\$ 54,420
Bedford	C-711	County Road Sewer	109,336
Manchester	C-712	Fluidized Air Blower	65,726
WRBP*	C-713	Plant Water System Evaluation	4,748
Jaffrey	C-714	Hadley Road Pump Station Upgrade	623,341
Hampton	C-715	Wastewater Treatment Facility Upgrade	1,385,015
Londonderry	C-716	South Londonderry Interceptor Design	56,140
Littleton	C-717	Bishop Street Sewer Project	57,101
Littleton	C-718	Union Street Sewer Project	33,963

\*Winnepesaukee River Basin Program.

WHEREAS, The Department of Environmental Services has examined said applications as to the eligibility of the construction costs for State contributions; and

WHEREAS, The Water Council finds that said projects are intended to control or reduce pollution in the surface waters of the State as defined in RSA 485-A;

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said applicants and respectfully recommends that the Governor and Executive Council approve said grants and authorize payment thereof through the Department of Environmental Services as provided for in said Chapter.

**3. Approval of Public Water System Interconnection Grants**

Robert Mann, P.E., Water Supply Engineering Bureau, requested approval of three grants under the State Public Water System Interconnection and Well Investigation Grant Program as set forth in a memo to Harry T. Stewart, P.E., Director, Water Division from Sarah Pillsbury, P.G., Administrator of the Water Supply Engineering Bureau dated April 3, 2006.

***Councilor Varotsis moved to approve the grants and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Patenaude seconded the motion and it was unanimously voted.***

WHEREAS, The following water systems have applied to the Department of Environmental Services, under the provisions of RSA 486-A, for grants in the amounts listed to aid in defraying the costs of establishing regional water systems and investigating well contamination as defined in said Chapter:

<u>Public Water System</u>	<u>Grant#</u>	<u>Project</u>	<u>Amount</u>
Manchester Water Works	06-1471010-01	Little Pond Estates, Bedford	\$ 324,825.00
Woodsville Water & Light	06-1101040-01	Mountain Lakes Water Dept.	21,350.00
Conway Village Fire Dist.	06-0511010-01	N Conway Water Precinct (Well Contamination Invest.)	1,105,375.00

WHEREAS, The Department of Environmental Services has examined said applications as to the eligibility of the projects for state contributions; and

WHEREAS, The Water Council finds that said projects are consistent with establishment of regional water systems as defined in RSA 486-A;

NOW THEREFORE, The Water Council finds that all the provisions of RSA 486-A have been met by said applicants and respectfully recommends that the Governor and Executive Council approve said grants and authorize payments thereof through the Department of Environmental Services, as provided for in said Chapter.

**5. Rules: Env-Ws 1300 New Hampshire Clean Lakes Program**

Amy Smagula, DES Watershed Bureau, distributed a summary of Clean Lakes and Exotic Species Rules. The current rules are set to expire in September 2006. The revisions and additions are intended to update and clarify the existing rules and to implement provisions of RSA 487:16 through RSA 487:24, specifically relative to limiting the eutrophication of lakes, controlling exotic aquatic weeds, making financial grants for management of exotic aquatic weeds infestations and participating in diagnostic and feasibility studies.

***Councilor Butler made a motion to approve the rules as presented and to authorize the bureau to continue with the rulemaking process. Councilor Bradley seconded the motion and it was unanimously voted.***

**9:15 The council went into Nonpublic Session for the purpose of discussing personnel matters.**

**9:25 The council meeting was reconvened by Chairman Bridges.**

**4. Status of Appeals**

Michael Sclafani distributed an Appeals Status Report and reviewed pending appeals with the council.

- **Docket No. 03-10 WC - Appeal of Conservation Law Foundation**

A written Decision & Order was issued on January 30, 2006 to deny this appeal. On February 27, 2006 the appellant filed a Motion for Rehearing. The applicant filed an Objection to Motion for Rehearing on March 3, 2006.

Councilor Cowan requested that discussion of this Motion for Rehearing be postponed until the end of the appeals presentation.

❖ Discussion and vote appear at the end of agenda Item 4.

- **Docket No. 03-14 WC - Appeal of Gerald A. Bell**

A stay remains in effect on this appeal pending the resolution of a declaratory judgment action before the Merrimack County Superior Court. Mr. Sclafani added that a trial date has been set for June 2, 2006.

- **Docket No. 04-05 WC - Appeal of Freudenberg-NOK General Partnership**

A consented-to stay remains in effect on this appeal pending a ruling by the Grafton County Superior Court on the state's petition for declaratory judgment.

- **Docket No. 04-18 WC - Appeal of Thaddeus Dymon**

A stay remains in effect pending the resolution of a boundary line dispute in Sullivan County Superior Court. A tentative trial date has been set for the end of May 2006.

- **Docket No. 04-19 WC - Appeal of Town of Newport**

See Docket No. 04-18 above.

- **Docket No. 05-16 WC - Appeal of Pollard Realty Trust**  
An appeal hearing went forward on February 8, 2006 and the council voted to deny this appeal. A written Decision & Order to deny the appeal was issued on April 4, 2006.
- **Docket No. 05-17 WC - Appeal of Daniel Osborn**  
This appeal is scheduled for hearing today at 10:00 a.m.
- **Docket No. 05-21 WC - Appeal of Save Our Groundwater**  
Action on this appeal is tabled pending a ruling by the Supreme Court.
- **Docket No. 05-22 WC - Appeal of Town of Nottingham**  
Action on this appeal is tabled pending a ruling by the Supreme Court.
- **Docket No. 06-04 WC - Appeal of Andrews and Carpenter**  
A Notice of Appeal was filed to appeal the March 9, 2006 waiver denial of the no-swim rule at Canobie Lake. The appeal was timely filed on April 5, 2006.

***Councilor Butler made a motion to accept this appeal. Councilor Bradley seconded the motion and it was unanimously voted.***

Chairman Bridges requested that Councilor Densberger serve as hearings officer for this appeal.

❖ **Discussion and Vote on Docket No. 03-10 WC - Appeal of Conservation Law Foundation**

Councilor Cowan suggested that the council discuss and respond to each point raised in the appellant's Motion for Rehearing. Several councilors indicated that they would like more time to review the motion.

***A motion was made by Councilor Densberger to table action on appellant's Motion for Rehearing until the council's next meeting. Councilor Butler seconded the motion and it was unanimously voted.***

**7. Other Business**

**Rules: Env-Ws 510-522 (now Env-Dw 1100) Drinking Water State Revolving Loan Fund Program Rule**

Karla McManus, Rules Coordinator for the Water Supply Engineering Bureau, distributed a copy of the proposed rules for readoption with amendments, which represents a major reorganization of the rules. Ms. McManus stated that there are no substantive changes to the rules other than the addition of a waiver section to give more flexibility in the application of the rules. Ms. McManus apologized for the late notification to the council.

Councilors have two weeks in which to forward their comments to the bureau. The comment period also extends through the time of public hearing which is currently scheduled for June.

***Councilor Cowan made a motion to authorize the bureau to continue with the rulemaking process to readopt with amendments Env-Dw 1100 and that the rules be brought before the council for discussion at its next meeting. Councilor Densberger seconded the motion and it was unanimously voted.***

**6. 2006 Legislation**

Harry T. Stewart, P.E., Water Division Director, distributed a summary of water-related legislation and discussed the status of pending bills.

**8. Next Meeting**

The next meeting is scheduled for May 10, 2006.

**9. Adjournment**

***A motion was made by Councilor Densberger to adjourn. The motion was seconded by Councilor Butler and unanimously voted.***

The meeting adjourned at approximately 9:55 a.m.

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**10:00 Appeal Hearing: Docket No. 05-1 WC  
APPEAL OF DANIEL OSBORN**

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